

ATTACHMENT A
Remarks

Claims 1-6 are pending in the present application. By this Amendment, Applicants have amended claims 1-6. Applicants respectfully submit that the present application is in condition for allowance based on the discussion which follows.

The abstract of disclosure was objected to for being in a non-conventional U.S. abstract form. By this Amendment, Applicants have amended the abstract of disclosure to be in a more conventional U.S. patent abstract form.

The specification was objected to for including a reference to claim 1 on the first page of the specification. By this Amendment, Applicants have amended the specification to delete reference to claim 1 on the first page of the specification.

Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leverett (U.S. Patent No. 5,677,516) in view of Ishii (U.S. Patent No. 5,901,854). In the rejection, the Examiner alleges that Leverett discloses all elements, except for a carrier element automatically returning to a conveying position, but that it would have been obvious to include an automatic return element, namely spring 30 of Ishii, in the conveyor of Leverett.

Claims 1-6 are not obvious from the aforementioned references, as their combined teaching fails to disclose all claim elements. The present invention deals with a different type of conveyor, namely a conveyor that has a carrier that can assume discharge positions for lateral discharge on both sides of the conveyor (see claim 1). Because of the ability to discharge on both sides, additional design considerations were accommodated in order for the present conveyor to function properly, i.e. to properly discharge on both sides of the conveyor.

In sharp contrast to the present conveyor which discharges on both sides, in Leverett, a pivot axis of the carrier is positioned on one side of the carrier. Consequently, products can only be discharged to one side of the conveyor, namely the right side of Figure 10, Leverett. Similarly, Ishii fails to teach a conveyor which can discharge on both sides of the conveyor. Therefore, Leverett, individually or in combination with Ishii, fails to teach or in any way make obvious a carrier which can discharge product from both sides of a conveyor.

Furthermore, as noted above, having discharge positions on both sides of a conveyor, as recited in claim 1 (currently amended), introduces engineering problems which need to be overcome and have been addressed in the presently recited conveyor. Specifically, having discharge positions on both sides of the conveyor results in a carrier that will not return automatically absent the claimed elements to ensure the return of the carrier. Since Leverett and Ishii do not have to accommodate discharges on both sides of a conveyor, it would not have been obvious to modify Leverett, as alleged by the Examiner, as there would be absolutely no reasonably apparent reason for one to make the alleged modification.

Moreover, there fails to be any reasonably apparent reason for one of ordinary skill in the art to combine the conveyor of Leverett with the return spring 30 of Ishii. In order for two references to be combined in an obviousness-type rejection under 35 U.S.C. § 103(a), there must be "a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. KSR Int'l v. Teleflex, Inc., 550 U.S. ____ (2007), Slip Opinion at page 14. The Examiner alleges that the reason one of ordinary skill in the art would have combined

Leverett with Ishii is to return the carrier to a horizontal position. However, contrary to this assertion, Leverett discloses a conveyor in which gravity forces the carrier into a horizontal position, as shown in Figure 10, Leverett, in continuous lines. In the Leverett device, only when the discharge ramp actuates arm 103 will the carrier be lifted and the product discharged. See Leverett, column 8, lines 48-56. When the discharge ramp is not brought into the path of arm 103, or removed therefrom by a solenoid, the carrier will automatically return. This is because the pivot axis of the carrier is positioned on one side of the carrier. Consequently, products can only be discharged to one side of the conveyor, namely the right side in Figure 10. In any event, the conveyor is designed so that the carrier will automatically return to the horizontal position. Thus, the carrier in Leverett does not need an "automatic return feature," as alleged by the Examiner, since the Leverett conveyor already has an automatic return feature. Therefore, one of ordinary skill in the art would have no reason to modify the Leverett conveyor to have an automatic return feature allegedly formed by modifying Leverett in view of Ishii.

Further, the alleged combination of Leverett with Ishii fails to result in the presently recited conveyor. Contrary to the Examiner's interpretation of Ishii, Ishii spring 30 does not automatically return carrier element 25 to a conveying position. See, e.g., Ishii, Figure 9 (where spring 30 biases a detent lever 29 that holds rollers 25 via pivot member 27), column 5, lines 33-45 and column 7, lines 37-46. Once the rollers 25 are pivoted downwardly, the spring is not able to move these rollers upwardly again. This is done by reset plates 20b, shown in Figure 5 (see Ishii, column 7, lines 47-53). In other words, the carriers of Ishii do not automatically return to the conveying position. To the contrary, the carriers remain in the discharge position, even when actuator 55 is

not actuated. This is in contrast to the requirements of claim 1 of the present application. Thus, the alleged obvious modification of Leverett in view of Ishii fails to produce the present conveyor of claim 1 (currently amended).

Based on the foregoing, Applicants respectfully submit that claims 1-6 are not obvious from Leverett in view of Ishii.

In view of the foregoing, Applicants respectfully submit that the present application is in condition for allowance.

END REMARKS